



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/626,820	07/27/2000	Hiroteru Tsuchiya	00544/LH	9602

7590 01/28/2004
Frishauf Holtz Goodman Langer & Chick PC
25th Floor
767 Third Avenue
New York, NY 10017-2023

EXAMINER

LEZAK, ARRIENNE M

ART UNIT	PAPER NUMBER
----------	--------------

2143

DATE MAILED: 01/28/2004

5

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/626,820

Applicant(s)

TSUCHIYA, HIROTERU

Examiner

Arrienne M. Lezak

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 5-10 and 14-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1, 5-10 and 14-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Examiner notes that Independent Claims 1 and 10 and Dependent Claims 5-9 and 14-18 have been amended. Examiner further notes Claims 2-4 and 11-13 have been cancelled. Moreover, Examiner notes that no new claims have been added. All Claims not explicitly addressed herein are found to be addressed within prior Office Action dated 16 September 2003 as reiterated herein below.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 5-9 and 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5,822,535 to Takase in view of US Patent 5,845,080 to Hamada.

4. Regarding Claims 1 & 10, Takase discloses a management object process unit comprising a control processing section for performing a control of selectively collecting a plurality of management objects from a managed device; and a memory section for storing the management objects collected from said managed device; wherein said control processing section includes a object managing section, having items of classification data for classifying the plurality of management objects respectively, and

Art Unit: 2143

for collecting those of the management objects in advance which are classified to a specific type by the classification data to store in said memory section, (Col. 1 and 2 – Takase ('535)), (as required by Claims 1 and 10 in the pending application).

5. Takase ('535) does not disclose or describe a management object process unit with an object managing section capable for checking, at a time of receiving an object collection request, the classification data for a management object requested by the object collection request, for retrieving the management object confirmed by a check result as being of the specific type from said memory section to transmit the retrieved management object, and for collecting the management object confirmed by the check result as being of a type other than the specific type from said managed device to transmit the collected management object, (as further required by Claims 1 and 2 in the pending application).

6. Moreover, Takase ('535) does not specifically enumerate the initial collection, storage, and update of a specific type of management object, (such as ones requiring a short collection time, a high access frequency, and/or a high value change frequency), (as required by pending Claims 5-8 and 14-17). Takase also does not incorporate the use of response processing rules as determined by classification data, (as required by pending Claims 9 and 18).

7. Hamada ('080) describes a management object process unit with an object managing section capable for checking, at a time of receiving an object collection request, the classification data for a management object requested by the object collection request, for retrieving the management object confirmed by a check result as

being of the specific type from said memory section to transmit the retrieved management object, and for collecting the management object confirmed by the check result as being of a type other than the specific type from said managed device to transmit the collected management object, (Abstract; Col.2, lines 33-61; Col.3, lines 23-40). Hamada also describes an efficient use of specific type attributes by classification based on a definition derived from management information, (Col. 2, lines 56-61 and Col. 3, lines 23-26 and 34-40).

8. To incorporate the distribution element and the use of a specific type priority management object standard from Hamada into the object managing section of Takase would have been obvious to one of ordinary skill in the art at the time of invention by applicant since an intelligent selective distribution element capable of determining and employing proper substitution is an obvious necessity within a management object process unit. Further, the Hamada network management unit discloses a method for efficient management of a stored attribute class, which implies the ability to delineate and substitute among specific type attributes in a given class as needed. The motivation to substitute this element of Hamada into the Takase unit is suggested within Takase itself. As noted above, the very nature of a network management and data collection system requires both collection and distribution functionalities.

9. Takase specifically enumerates a collection functionality, however, the distribution functionality is not similarly defined therein. Hamada, (also a network management unit), further enumerates a method for efficient cache management by current specific type priority amendable attribute classification, which, when

Art Unit: 2143

incorporated into the Takase unit, would exemplify a system with defined functionalities for collection and distribution. Examiner further believes that those attributes of collection time, access frequency, value change frequency and the use of response processing rules based on classification data, (specifically enumerated within the pending claims), would have been inclusively and necessarily part of the attributes generally described within both Takase and Hamada.

10. Therefore, Claims 1, 5-9 and 14-18 are unpatentable over the combined teachings of Takase in view of Hamada.

Response to Arguments

11. Applicant's arguments filed 18 December 2003, have been fully considered but they are not persuasive.

12. Regarding Claims 1 and 10, as amended, Examiner finds the Claims to be further limiting by adding the following:

“wherein said object managing section includes items of attribute data for the management objects, each of which includes at least one of : (i) a collection time required for collecting a corresponding management object, (ii) an access frequency of a collection request for the corresponding management object, and (iii) a value change frequency of the corresponding management object; and

wherein said collection time is for comparison with a reference collection time, said access frequency is for comparison with a reference access frequency, and said value change frequency is for comparison with a reference value

change frequency, and wherein each of said items of classification date is determined by a result of comparison”

13. Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

14. Examiner finds arguments enumerated within previous Office Action dated 16 September 2003, to further encompass Applicant's amended claim limitations as noted herein above. Hamada teaches static analysis of attributes as applied to cache coherency. As a result, Hamada, chooses attributes selected for optimization for cache coherency. However, Hamada is not limited to the disclosed embodiment, but includes various variations and modifications, (Col. 15, lines 19-22). Hamada, as applied to management object processing, (Takase), implies choosing those attributes selected for management object processing which would provide for shortened total collection time. Thus, Hamada in view of Takase may be extended to read upon those attributes specifically enumerated by Applicant.

15. In response to Applicant's argument that Hamada addresses attributes selected for optimization for cache coherency rather than for purposes of shortening total collection time, (as noted within Applicant's Amendment dated 16 December 2003), the fact that Applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the

differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

16. Thus, Claims 1 and 10, as amended are further rejected.

17. Regarding Dependent Claims 5-9 and 14-18, Applicant admits that remaining claim amendments were constructed to coincide with amended Independent Claims 1 and 10, and as such are further rejected on the same basis as noted herein above.

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

19. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Conclusion

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Art Unit: 2143

"Introduction to Algorithms", Cormen, Leiserson and Rivest.

[Reference discusses the "Least Recently Used" algorithm, (LRU),
common in cache technology.]


21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arrienne M. Lezak whose telephone number is (703)-305-0717. The examiner can normally be reached on M-F 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (703)-308-5221. The fax phone number for the organization where this application or proceeding is assigned is (703)-305-3718.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-305-6121.

Arrienne M. Lezak
Examiner
Art Unit 2143

AML


DAVID WILEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100